

Message Text

UNCLASSIFIED

PAGE 01 MADRID 07012 081736Z

73

ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-06 FRB-01

INR-07 NSAE-00 RSC-01 TRSE-00 XMB-04 OPIC-06 SP-02

CIEP-02 LAB-03 SIL-01 OMB-01 L-02 NSC-05 SS-15 STR-04

CEA-01 PA-02 PRS-01 USIA-15 /097 W

----- 040005

R 081619Z NOV 74

FM AMEMBASSY MADRID

TO SECSTATE WASHDC 397

INFO AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY LONDON

AMEMBASSY PARIS

USMISSION EC BRUSSELS

USMISSION OECD PARIS

UNCLAS MADRID 7012

E.O. 11652: N/A

TAGS: EIPDGEYOPI# SUBJECT: NEW SPANISH REGULATIONS ON FOREIGN INVEST
MENT

1. SUMMARY: NEW GOS REGULATIONS GOVERNING FOREIGN
INVESTMENT OFFICIALLY PUBLISHED NOV 6 AND ARE DESIGNED
PRINCIPALLY TO PULL TOGETHER AND CLARIFY PREVIOUS REGULA-
TIONS, TIGHTEN CERTAIN LOOPHOLES, AND MOST IMPORTANTLY, TO
CONTINUE POLICY OF ENCOURAGING FOREIGN INVESTMENT IN SPAIN.
COMMENTS TO DATE FROM LOCAL TAX EXPERTS AND BUSINESSMEN
INDICATE THAT NEW RULES POSE NO MAJOR NEW DIFFICULTIES FOR
AMERICAN INVESTMENT IN CERTAIN SECTORS EASIER THAN BEFORE.
MAJOR CHANGE INVOLVES STRICTER CONTROL OF INVESTMENTS IN
SPANISH FIRMS BY OTHER SPANISH FIRMS WHICH ARE CONTROLLED
BY FOREIGN CAPITAL. END SUMMARY

2. ON NOV 6 GOS ISSUED SERIES OF REGULATIONS COVERING
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 MADRID 07012 081736Z

FOREIGN CORPORATE AND INDIVIDUAL INVESTMENTS IN SPAIN. IN

SO DOING, GOVERNMENT HAS GONE TO SOME LENGTH TO EMPHASIZE IMPORTANCE SPAIN CONTINUES ATTACH TO FOREIGN INVESTMENT AND GOS DESIRE TO DO NOTHING TO REDUCE INFLOW OF FOREIGN CAPITAL. SPEECH BY MINISTER OF COMMERCE TO LOCAL BUSINESS GROUPS AND MEETING OF OFFICERS FROM SEVERAL EMBASSIES WITH MINCOM OFFICIAL RESPONSIBLE FOR DRAFTING NEW LAWS BOTH STRESSED GOS DESIRE TO MAINTAIN A HIGH LEVEL OF FOREIGN INVESTMENT.

3. EMBASSY WILL FORWARD TO DEPARTMENT BY AIRGRAM ENGLISH TRANSLATIONS OF NEW LEGISLATIONS. AMONG MORE SIGNIFICANT PROVISIONS ARE FOLLOWING:

A) WHERE FOREIGN INVESTMENTS REPRESENT LESS THAN 50 PERCENT OF EQUITY IN SPANISH FIRM, NO PRIOR GOS APPROVAL REQUIRED. ABOVE 50 PERCENT FOREIGN INVESTMENT, APPROVAL OF THE COUNCIL OF MINISTERS IS REQUIRED. FOREIGN INVESTMENT OF UP TO 100 PERCENT CONTINUES TO BE ALLOWED. THIS IS CONTINUANCE OF CURRENT PRACTICE. HOWEVER, NEW LEGISLATION ALSO PERMITS FOREIGN INVESTMENT ABOVE 50 PERCENT IN MANUFACTURING FACILITIES FOR CERTAIN TYPES OF CAPITAL EQUIPMENT NOT CURRENTLY PRODUCED IN SPAIN TO BE MADE WITHOUT APPROVAL OF COUNCIL OF MINISTERS.

B) THE REGULATIONS CLOSE CERTAIN LOOPHOLES INVOLVING INVESTMENT IN A SPANISH COMPANY BY ANOTHER SPANISH COMPANY WHICH IS MORE THAN 25 PERCENT FOREIGN OWNED. IF THE SPANISH INVESTING COMPANY IS MORE THAN 50 PERCENT FOREIGN OWNED OR BETWEEN 25 AND 50 PERCENT FOREIGN OWNED BUT WITH A PREDOMINANCE OF FOREIGN INFLUENCE, IT WILL BE CONSIDERED AS 100 PERCENT FOREIGN OWNED, AND ITS INVESTMENTS IN OTHER SPANISH FIRMS WILL BE SUBJECT TO GOS APPROVAL. THIS PROVISION COULD COVER A BROAD SPECTRUM OF BUSINESS ACTIVITY, BUT IT WILL NOT BE RETROACTIVE.

C) PERMISSION TO TRANSFER ABROAD PROFITS, DIVIDENDS INVESTED CAPITAL AND CAPITAL GAINS IS GRANTED "WITHOUT ANY LIMITATION WHATSOEVER AS TO THE AMOUNT" (AS BEFORE), BUT A FURTHER PROVISION AUTHORIZING THE GOVERNMENT TO REFUSE THIS RIGHT IF "IT IS FOUND THAT THE PROFITS AND CAPITAL GAINS HAVE BEEN OBTAINED BY INFRINGEMENT OF THE LEGAL PROVISIONS ON FOREIGN INVESTMENT" LEAVES ROOM FOR INTERPRETATION AND MAY CAUSE SOME UNEASINESS.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 MADRID 07012 081736Z

4. IN CASES WHERE GOS APPROVAL IS REQUIRED, GOVERNMENT WILL FAVOR INVESTMENTS WHICH FURNISH NEW TECHNOLOGY, ARE DESIGNED FOR EXPORTS, AND WHICH BY THEIR LOCATION WILL ASSIST REGIONAL ECONOMIC DEVELOPMENT.

5. NEW REQUIREMENTS DO NOT APPEAR TO PROVIDE MAJOR DIFFICULTIES FOR AMERICAN INVESTORS AND MAY BE EXPECTED TO CLARIFY AND TO SOME EXTENT SIMPLIFY INVESTMENT PROCEDURES. THE ONE

NOTE OF CAUTION EXPRESSED SO FAR BY LOCAL FOREIGN BUSINESSMEN
IS THAT NEW RULES NECESSARILY LEAVE CERTAIN AMOUNT TO
ADMINISTRATIVE DISCRETION, AND WHILE PRESENT OFFICIALS
INVOLVED ARE DISPOSED TO LIBERAL OPERATION OF REGULATIONS,
FUTURE OFFICIALS COULD BE LESS SO. BUT ON BALANCE, THERE
APPEARS TO BE NO CAUSE FOR MAJOR CONCERN.

6. AMERICAN CHAMBER OF COMMERCE AND LOCAL OFFICES OF US
ACCOUNTING FIRMS WILL BE COMPARING NEW REGULATIONS WITH
PREVIOUS ONES. AS MORE INFORMATION BECOMES AVAILABLE
EMBASSY WILL FORWARD IT TO WASHINGTON.
RIVERO

NOTE BY OC/T: # AS RECEIVED.

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FOREIGN INVESTMENT CONTROLS
Control Number: n/a
Copy: SINGLE
Draft Date: 08 NOV 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974MADRID07012
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740322-0561
From: MADRID
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741159/aaaabygs.tel
Line Count: 128
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 13 NOV 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <13 NOV 2002 by WorrelSW>; APPROVED <13-Nov-2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: n/a
TAGS: EINV, US, SP
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005